

GUIDANCE ON ISSUING ADVERSE ACTION NOTICES DURING THE HOLIDAY SEASON

Purpose

As we near the end of the calendar year, the DCPAS Labor and Employee Relations Division frequently receives inquiries regarding the existence of a moratorium on the issuance of adverse action notices during the holiday season. This guide seeks to clarify confusion regarding the application DoDI 1400.25 DoD Civilian Personnel Management, Volume 351, Coordination and Clearance Requirements for Personnel Reductions, Closures of Installations and Reductions of Contract Operations in the United States, Enclosure 3, Section 2. PROHIBITED NOTICE PERIOD.

Background

Enclosure 3.2. (PROHIBITED NOTICE PERIOD) of the Instruction states in part, “RIF [reduction in force] and other termination notices shall not be issued or made effective on or between December 15 and January 3.” Because the language “RIF and other termination notices” is vague enough to be construed as pertaining to all termination notices, questions have often been raised concerning the applicability of the prohibited notice period to all adverse actions.

Discussion

When considering at the requirements of the Instruction in context, DoDI 1400.25 DoD Civilian Personnel Management, Volume 351, Coordination and Clearance Requirements for Personnel Reductions, Closures of Installations and Reductions of Contract Operations in the United States, is intended to cover reduction-in-force actions. As such, the prohibited notice period pertains only to reductions-in-force. For that reason, the notice prohibition **does not** apply to termination notices related to adverse actions. While your Component may have developed such a prohibition concerning adverse action notices, there is no such DoD prohibition.

Conclusion

DoDI 1400.25, Volume 351, Enclosure 3, Section 2. PROHIBITED NOTICE PERIOD pertains only to actions related to reduction-in-force. It does not apply to adverse action notices such as those related to performance or conduct.

Reference: DoDI 1400.25-V351, January 19, 2011